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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/334,415	06/16/1999	CLAUDE BASSO	FR9-98-048	5316

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CESARI AND MCKENNA, LLP  
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BOSTON, MA 02210

EXAMINER
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JAGANNATHAN, MELANIE

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 03/07/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.



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**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/334,415

Applicant(s)

BASSO ET AL.

Examiner

Melanie Jagannathan

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 June 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims **1-3,5-8** are rejected under 35 U.S.C. 102(e) as being anticipated by Hjalmtysson et al U.S. 6,128,305.

Regarding claims **1,5**, the claimed source node and destination node are anticipated by calling station (Figure 9, element 901) and called station (Figure 9, element 910). The claimed initiation of connection procedure through call setup message sent by source node to destination node and destination node sending back an acknowledgment message to source node is anticipated by calling station sending setup message (Figure 9, SETUP) to called station and called station sending back acknowledgment message (Figure 9, ACK) to calling station.

Regarding claims **2,6**, the claimed sending of verification data stream to destination node after receiving acknowledgment message and sending of response data stream back after

receiving verification data stream to check characteristics of connection established between source node and destination node is anticipated by calling station sending quality of service message (Figure 9, QoS REQUEST) and called station sending back quality of service commit message (QoS COMMIT) back.

Regarding claim 3, the claimed asynchronous connection-oriented transmission network being ATM network is anticipated by establishment of connection in ATM network. See column 1, lines 16-20.

Regarding claim 7, the claimed check of end-to-end transit delay of connection is anticipated by connection setup for purposes of connectivity that minimizes end-to-end delay. See column 6, lines 28-48.

Regarding claim 8, the claimed check bandwidth allocation is anticipated by QoS request and QoS commit messages sent to set up quality of service needed for connection which includes bandwidth allocation. See column 9, lines 40-67 and column 10, lines 1-9.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hjalmtysson et al. U.S. 6,128,305. Hjalmtysson et al. disclose all the limitations of the claim except for use of frame relay network.

Therefore, examiner takes official notice of the concept and the advantage of implementing the signaling system of Hjalmtysson et al. in a frame relay network. Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use a frame relay network. One of ordinary skill in the art would be motivated to do this since the signaling system is adaptive to use with fixed length packets or with variable length packets.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hamaguchi U.S. 5,673,264 discloses subscribers establishing ATM connections in distribution system.

Eng et al. U.S. 5,757,783 disclose method and apparatus for routing ATM cells in an AD-ATM LAN.

Goldstein et al. U.S. 5,029,164.

Ohsawa U.S. 5,519,699.

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Bales et al. U.S. 5,574,724.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Jagannathan whose telephone number is 703-305-8078.

The examiner can normally be reached on Monday-Friday from 8:00 a.m.-4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 703-308-5463. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9315 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Melanie Jagannathan  
Patent Examiner  
AU 2666

MJ  
February 10, 2003

*Seema S. Rao*  
SEEMA S. RAO 2/10/03  
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